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A.F.R.

HIGH COURT OF CHHATTISGARH, BILASPUR

Transfer Petition (Civil) No. 01/2007

PETITIONER

Smt. Anita Sahu, W/o Rajesh Sahu, Aged about 22 years, D/o Dwarika Sahu, R/o Sitlapara (Nayapara), Tehsil-Abhanpur, District-Raipur (C.G.)

Versus

RESPONDENT

Rajesh Sahu, S/o Mohan Sahu, Aged about 24 years, R/o Dudhnadi Colony, Kanker, District-Kanker, C.G.

Present:

Shri Satyendra Sahu, learned counsel for the petitioner.
Shri B.R.Ghosh, learned counsel with Shri Som Kant Verma, counsel for the respondent.

ORAL ORDER

(Passed on 14th March, 2007)

The following oral order of the Court was passed by Dilip Raosaheb Deshmukh, J.

Heard.

2. At the request of learned counsel for the parties, this Transfer Petition (Civil) is being disposed of finally at the stage of admission.

3. Admittedly, the applicant Smt. Anita Sahu resides at Sitlapara (Nayapara), Tehsil-Abhanpur, District Raipur (C.G.) and Civil Suit No.29-A/2006 filed under Section 13(a) of Hindu Marriage Act is pending between the parties before the District Judge, Kanker.

4. The case of the applicant herein is that she has no independent source of income and has a minor child to support. She is living with her parents and it would be extremely inconvenient for her to attend the hearings at Kanker. It is, therefore, prayed that Civil Suit No.29-A/2006 pending before the District Judge, Kanker be transferred to the District

Judge, Raipur. Reliance was placed on Neelam Pravin Singh Bhadoriya Vs. Pravin Singh Ramakant Bhadoriya reported in 2006(2) ANJ (SC) (NOC) 137 and Sumita Singh Vs. Kumar Sanjay and another reported in 2002-AIR-SC-396.

5. On the other hand, Shri B.R.Ghosh, learned counsel for the respondent argued that the applicant-wife is already receiving maintenance from the husband and the Civil Suit No.29-A/2006 should not be transferred merely to suit the convenience of the wife.

6. Having heard rival contentions, I am of the considered opinion that the petition deserves to be allowed.

7. It is the case of the petitioner that she is living with her parents and has a small minor child to support at Sitlapara (Nayapara), Teshsil-Abhanpur, District-Raipur (C.G.). During the course of arguments, it was not disputed that the application for grant of maintenance filed by the applicant-wife was also disposed of at Raipur. In Neelam Pravin Singh Bhadoriya Vs. Pravin Singh Ramakant Bhadoriya (supra), the fact that the applicant-wife had a small child to support and that she had no independent means of livelihood and was dependent on her parents were held to constitute relevant grounds while deciding an application for transfer of the case. In view of the dictum of the Apex Court in Sumita Singh Vs. Kumar Sanjay and another (supra), it is the wife's convenience that must be looked at. The circumstances indicated above are sufficient to order transfer of the Civil Suit No.29-A/2006 from Kanker to Raipur.

8. Consequently, the petition is allowed. Civil Suit No.29-A/2006 pending before the Court of District Judge, Kanker is transferred to the Court of District Judge, Raipur. Parties are directed to appear before the District Judge, Raipur on 09.05.2007. A copy of this order be sent to the District Judge at Kanker and Raipur.

Sd-/
Dilip Raosaheb Deshmukh
Judge